

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

GOINES,	.
	.
Plaintiff,	.
	. Case No. 22-cv-04560
vs.	.
	. Newark, New Jersey
CELSIUS NETWORK, LLC, et al.,	. January 30, 2024
	.
Defendants.	.
	.

TRANSCRIPT OF HEARING: MOTION TO WITHDRAW
BEFORE THE HONORABLE EDWARD S. KIEL
UNITED STATES MAGISTRATE JUDGE

APPEARANCES (the parties appeared via teleconference):

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1 (Commencement of proceedings)

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3 THE COURT: -- 22-cv-04560.

4 Is anybody on for plaintiffs?

5 Okay. Anybody on for the Yankwitt law firm, is it?

6 Mr. Ohring.

7 MR. OHRING: Yes. This is John Ohring,

8 Yankwitt LLP. Good morning.

9 THE COURT: Okay. All right.

10 Anybody -- let me just check again. Anybody on for
11 plaintiffs? No. Okay --

12 (Simultaneous conversation)

13 MR. MASSON: Plaintiff's counsel for the Goines
14 matter is here. Sean Masson.

15 MR. JASNOCH: John Jasnoch also with Scott+Scott is
16 here.

17 THE COURT: Okay.

18 There was a consolidated complaint that I guess
19 changed the name of the caption to Kaplan versus Mashinsky.
20 Right?

21 MALE SPEAKER: Yes, it's the same case.

22 THE COURT: Yeah, it's the same case.

23 All right. Let me see. Is Alex Mashinsky on?

24 MR. MASHINSKY: Yes, I'm on the call.

25 THE COURT: Okay.

1 And are any of the other parties themselves on the
2 call or representatives of the parties?

3 MR. ECONOMIDES: This is Constantine Economides of
4 Dynamis LLP. I'm counsel for defendant Harumi
5 Urata-Thompson.

6 THE COURT: Okay --

7 (Simultaneous conversation)

8 THE COURT: Okay. Go ahead.

9 MS. NATHANSON: Sorry. This is Leigh Nathanson
10 from King & Spalding for defendant Kristine Meehan.

11 MR. SCRIVO: And, good morning, Your Honor.
12 T.J. Scrivo, also King & Spalding, on behalf of defendant
13 Meehan.

14 THE COURT: All right.

15 Kristine Meehan is also designated as Kristine
16 Mashinsky on the docket, as I recall. All right?

17 MS. NATHANSON: That's correct.

18 THE COURT: Okay. All right.

19 Anyone else on the call?

20 MR. ROSS: Good morning, Your Honor. You've got
21 William Ross from Morrison Cohen on behalf of Wintermute
22 Trading Ltd.

23 THE COURT: Okay. All right.

24 That sounds like everybody.

25 So let me just clarify some things with Mr. Ohring.

1 You filed a motion to withdraw as counsel for
2 Alexander Mashinsky, AM Ventures Holding Inc., and Koala1
3 LLC.

4 But on the docket, I see you as having entered an
5 appearance on behalf of Kristine Mashinsky, Harumi
6 Urata-Thompson, and Jeremie Beaudry as well.

7 Are you -- are you seeking to withdraw as to them
8 as well?

9 MR. OHRING: So that is -- I think that's not a
10 correct entry on the docket. We have never entered
11 appearances on behalf of any of the individuals you just
12 mentioned.

13 The only clients we have ever represented in this
14 action are Mr. Mashinsky, AM Ventures Holding, and Koala1.

15 So I think -- there's -- if that is what is showing
16 up on the docket, I think that was probably not correctly
17 annotated by the clerk's office.

18 THE COURT: Okay. Yeah, yeah, that's what I have
19 on the docket.

20 I know that you filed a notice of appearance for
21 AM, Koala1 and the other -- let me see -- and for
22 Mr. Mashinsky.

23 Yeah, on the docket, I think what happened was that
24 when you filed your motion to extend time and also motion to
25 stay, I think they grouped everybody together who had signed

1 the notices, and that includes Urata-Thompson and those
2 others.

3 So -- okay. So just those three you have.

4 All right.

5 Mr. Mashinsky, you're on the call; right?

6 MR. MASHINSKY: Yes.

7 THE COURT: Okay. I didn't receive any response or
8 any of opposition from you.

9 Are you intending to oppose this motion?

10 MR. MASHINSKY: No, I do not, Your Honor.

11 THE COURT: Okay. I saw that you had been served.
12 There is a proof of service of all the papers at ECF
13 Number 95.

14 So I will resolve the motion today, although there
15 were papers filed in support of the motion to withdraw his
16 appearance, the papers cite to New York rules of professional
17 conduct and New Jersey court rules. Those are the wrong
18 rules to cite to. We have our own local rules on the
19 withdrawal of counsel; that's pursuant to Local Rule 102.1.
20 Although Mr. Ohring failed to do any analysis of our local
21 rule or any of the case law behind it, I will take a look
22 at -- I took a look at it, and I'm ready to resolve it.

23 So pursuant to Local Civil Rule 102.1, unless other
24 counsel is substituted, withdrawal of counsel requires leave
25 op court. Rusinow v. Kamara, 920 F. Supp. 69, 71 (D.N.J.

1 1996). In deciding whether to permit an attorney to
2 withdraw, the Court should consider, first, the reasons while
3 withdrawal is sought; second, the prejudice withdrawal may
4 cause to other litigants; third, the harm withdrawal might
5 cause to the administration of justice; and, four, the degree
6 to which withdrawal will delay the resolution of the case.
7 Ultimately, whether to grant withdrawal is within the Court's
8 discretion. Id. at page 71. Further, the Court may refuse
9 to permit an attorney to withdraw, despite a showing of good
10 cause. Haines v. Liggett Group, 814 F. Supp. 414, 423
11 (D.N.J. 1993).

12 So, first, the reason for the withdrawal is the
13 failure of these defendants to meet their financial
14 obligation as to counsel. At this very early stage of the
15 case, that is valid to withdraw. I do not expect lawyers to
16 work for free. And it doesn't appear that Mr. Mashinky's --
17 who's the only party on the call, is going to object to the
18 withdrawal.

19 Second, there's no prejudice to the plaintiff if
20 counsel is to withdraw -- I'm sorry -- there is no prejudice
21 to the parties if counsel is to withdraw. No party has filed
22 any objection to it. And it appears everybody does not --
23 all the parties do not oppose this case. And as I said, it's
24 very early in the case.

25 Third, and for the reasons stated before, there

1 will be no prejudice to the administration of justice.

2 Fourth, withdrawal of the case [sic] at this early
3 stage of the litigation will not substantially delay
4 resolution of the case. I entered an order very recently
5 staying discovery in this case, so it is very early stages of
6 the case, and there has been no discovery.

7 So, therefore, I will provide 30 days for the
8 corporate defendants to obtain new counsel. After that,
9 plaintiff can file for default as to those.

10 And Mr. Alex Mashinsky will be considered
11 proceeding pro se.

12 I will not further -- I will not schedule a further
13 conference -- the stay, unless anybody has any thought about
14 having a conference.

15 Does anybody have anything else today -- that I can
16 help them with today?

17 MR. ECONOMIDES: Your Honor, this is Mr. Economides
18 for defendant Ms. Urata-Thompson.

19 You just noted a stay of discovery, but I just
20 wanted -- I guess, a point of calibration. The order appears
21 to stay the entire case. And maybe it's a distinction
22 without a difference, but I just wanted to make sure we don't
23 have any disputes at the other side about it.

24 Our understanding is the entire case is stayed,
25 including all motion practice.

1 Is that correct?

2 THE COURT: That is correct.

3 MR. ECONOMIDES: Thank you.

4 THE COURT: All right. So we will not have a
5 further conference. I will enter the order.

6 Mr. Mashinsky, you'll be proceeding pro se, and the
7 other corporate defendants will have 30 days to file their
8 notice of appearance of a lawyer. Otherwise, a default can
9 be moved for.

10 I will -- Mr. Ohring, I will endeavor to get the
11 docket straight. And I will get you terminated on those
12 other defendants.

13 All right, everyone. If there's nothing else, have
14 a good day. We'll enter the order today.

15 We're off the record.

16 (Conclusion of proceedings)

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18 s/ *Sara L. Kern*

13th of February, 2024

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Signature of Approved Transcriber_____
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